Introduced by Senator McPherson

February 26, 1999

An act to amend Section 114145 of the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 979, as introduced, McPherson. Outdoor wood-burning ovens.

Existing law, the California Uniform Retail Food Facilities Law, establishes sanitation standards for retail food facilities and requires the State Department of Health Services and primarily local agencies to enforce its provisions. Existing law makes violation of these provisions a crime.

Existing law, with certain exceptions, requires each food establishment to be fully enclosed, with one of these exceptions being for open-air barbecue facilities that meet specified requirements.

This bill would also exempt from the enclosure requirement outdoor wood-burning ovens that meet food preparation and safety requirements applicable to open-air barbecue facilities.

By increasing the enforcement duties of local health agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 114145 of the Health and Safety 2 Code is amended to read:
- 3 114145. (a) Each food establishment, except produce 4 stands and swap meet prepackaged food stands, shall be 5 fully enclosed in a building consisting of floors, walls, and 6 an overhead structure that meet the minimum standards 7 prescribed by this chapter. Food establishments that are 8 not fully enclosed on all sides and that are in operation on 9 January 1, 1985, shall not be required to meet the 10 requirement for a fully enclosed structure pursuant to 11 this section.
- 12 (b) This section shall not be construed to require the 13 enclosure of dining any of the following:
 - (1) Dining areas or open-air.
 - (2) Open-air barbecue facilities, or outdoor
- 16 (3) Outdoor wood-burning ovens that meet all of the 17 food preparation and safety requirements applicable to 18 open-air barbecue facilities.
- 19 (4) Outdoor displays that meet all of the following 20 requirements:
- 21 (1)

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- 22 (A) Only prepackaged nonpotentially hazardous food, 23 uncut produce, or both is displayed or sold in the outdoor 24 displays.
- 25 (2)
- 26 (B) Outdoor displays are contiguous with a fully 27 enclosed food establishment that is in compliance with 28 subdivision (a).
- 29 (3)
- 30 (C) Outdoor displays have overhead protection that 31 extends over all food items.
- 32 (4)
- 33 (D) Food items from the outdoor display are stored 34 inside a fully enclosed food establishment that is in 35 compliance with subdivision (a) at all times other than

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during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

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(E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(6)

- (F) Outdoor displays are under the constant complete control of the operator of the permitted food 10 establishment.
- (c) This section shall not be construed to require the 12 enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing 14 operations that meet the following requirements:
- (1) The dispensing operations are installed contiguous 16 with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.
- (2) The beverages dispensed from are enclosed 20 equipment that precludes exposure of the beverages until they are dispensed at the nozzles.
- (3) Ice is dispensed only from an ice maker-dispenser. 23 Ice is not scooped or manually loaded into an ice dispenser out-of-doors.
 - (4) Single-service utensils are protected from contamination and are individually wrapped dispensed from approved sanitary dispensers.
- (5) The dispensing operations have overhead 29 protection that fully extends over all equipment associated with the facility.
- (6) During nonoperating hours the dispensing 32 operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.
- 34 (7) The owner or operator of the food establishment 35 demonstrates to the enforcement agency that acceptable 36 methods are in place to properly clean and sanitize the beverage dispensing equipment. 37
- (8) Beverage dispensing operations are in compliance 38 39 with Section 114010 and have been approved by the 40 enforcement agency.

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(9) Beverage dispensing operations are under the 2 constant and complete control of the permitholder of the 3 food establishments who is operating the dispensing 4 facility.

- (d) This section shall not be construed to allow outdoor 6 displays in violation of local ordinances.
- SEC. 2. No reimbursement is required by this act 8 pursuant to Section 6 of Article XIII B of the California 9 Constitution because the only costs that may be incurred 10 by a local agency or school district will be incurred 11 because this act creates a new crime or infraction, 12 eliminates a crime or infraction, or changes the penalty 13 for a crime or infraction, within the meaning of Section 14 17556 of the Government Code, or changes the definition 15 of a crime within the meaning of Section 6 of Article
- 16 XIII B of the California Constitution.